

EXTRA 07/02

Death pen.**USA (California) Stephen Wayne Anderson, white, aged 48**

---

Stephen Anderson is scheduled to be executed in California on 29 January 2002. He was sentenced to death for the murder of 81-year-old Elizabeth Lyman, a retired piano teacher, who was killed in her home in Bloomington, San Bernardino County, east of Los Angeles, in May 1980.

Stephen Anderson broke into Elizabeth Lyman's home to burgle it after drinking a large quantity of vodka. He states that he thought the house was empty and claimed that he shot Elizabeth Lyman when she woke up and surprised him. After the shooting, he did not attempt to leave the house, and was arrested when the police arrived three hours later. He confessed to the crime. He is said to remain very remorseful about the murder.

Anderson was sentenced to death in 1981. He was granted a new sentencing because the jury had not been asked to consider whether the murder had been intentional. In 1986, after a deliberation lasting many days, a second jury concluded that it had been, and he was sentenced to death again.

To date, three jurors from the earlier proceedings have stated that they do not believe that the death sentence should be carried out. Their reasons include the fact that Stephen Anderson's lawyer was "completely outclassed" by the prosecutor and "ill-prepared to present his case"; that family members of Elizabeth Lyman believe a life sentence is adequate; and that some jurors felt pressured into voting for death by other jurors.

At his trial and re-sentencing, Stephen Anderson was represented by the same lawyer. The latter defended two other capital clients in San Bernardino County between 1981 and 1986. In each case, the appeal courts found that his representation had fallen below the standard required by the Constitution. The courts described the lawyer's conduct, among other things, as "deplorable". Stephen Anderson's death sentence has been allowed to stand, despite evidence that the lawyer's representation of him was similarly inadequate - for example, he presented only one mitigation witness at the 1986 re-sentencing, a retired prison minister whose only meeting with Anderson had taken place the day before. The lawyer failed to investigate or present to the jury compelling details of the physical abuse and neglect Stephen Anderson suffered during his childhood and of his other traumatic life experiences, including those he suffered while in prison in New Mexico as a 21-year-old.

In 2000, a three-judge panel of the Ninth Circuit Court of Appeals upheld the death sentence by two votes to one. Last month, six Ninth Circuit judges dissented against the majority's refusal to conduct a rehearing in front of the full court (*en banc*): "At a time when much of the civilized world is questioning the fairness of our application of the death penalty...it is regrettable that this court refuses to consider *en banc* the case of an individual sentenced to death...after being represented by a court-appointed attorney whom we have now twice deemed constitutionally ineffective in capital cases -- an attorney who has demonstrated a willingness to lie to the court and to betray the interests of his capital clients." The dissenters said that Anderson's "death sentence may well have been imposed, not because of the crime that he committed, but because of the incompetence of an attorney with little integrity and a pattern of ineffective performance in capital cases", noting evidence from the other two cases that the lawyer had been "deceptive,

untrustworthy, and disloyal to his capital clients". Of one client he had reportedly said that he "did not care" what happened to him, and of the other that he "deserves to fry".

The dissent concluded: "...we must at least ensure that the process we afford to individuals whose lives we propose to take is both fair and consistent with fundamental constitutional values. If the courts appoint incompetent counsel to handle a capital case, we should not then compound that judicial error by permitting the state to execute the ill-represented defendant. The system has now failed doubly in Stephen Anderson's case."

#### **BACKGROUND INFORMATION**

Amnesty International opposes the death penalty in all cases. Those who lose relatives to murder deserve compassion and respect, but a retributive execution is not such a response. It simply extends the suffering to the family and friends of the condemned, who for years anticipate the killing of their loved one. The loss which Stephen Anderson's execution will inflict upon his mother, brother and two sons has been brought to the attention of the Governor as part of the clemency petition. The death penalty also denies the possibility of rehabilitation. Stephen Anderson, for example, has become an award-winning artist and poet on death row. His writings have been published in various media, and his play, "Lament from Death Row", was performed in New York in 1991.

In contrast to the 109 countries which have abolished the death penalty in law or practice, the USA has put 752 prisoners to death since it resumed executions in 1977. For further information, see: *USA: Arbitrary, discriminatory and cruel: an aide-mémoire to 25 years of judicial killing* (AMR 51/003/2002, 17 January), issued to mark the 25<sup>th</sup> anniversary of the execution of Gary Gilmore.

#### **RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words:**

- expressing sympathy for the family and friends of Elizabeth Lyman, explaining that you are not seeking to minimize the suffering her death will have caused;
- opposing the execution of Stephen Anderson;
- expressing concern at compelling evidence that his defence representation was inadequate, noting the appalling record of the lawyer who defended him and the dissent of the six Ninth Circuit judges;
- noting that a number of the jurors now support clemency;
- expressing concern that executions cause further suffering, to the family of the condemned prisoner;
- noting Stephen Anderson's efforts towards rehabilitation;
- urging the Governor to grant clemency.

#### **APPEALS TO:**

Governor Gray Davis  
 State Capitol Building  
 Sacramento, CA 95814, USA  
**Fax: + 1 916 445 4633**  
**E-mail: governor@governor.ca.gov**  
**Salutation: Dear Governor**

**COPIES TO:** diplomatic representatives of USA accredited to your country.

You may write a brief letters (not more than 250 words) to:

Letters to the Editor, Los Angeles Times, 202 W 1<sup>st</sup> Street, Los Angeles, CA  
90012, USA. **Fax: +1 213 237 7679. E-mail: [letters@latimes.com](mailto:letters@latimes.com)**

**PLEASE SEND APPEALS IMMEDIATELY.**